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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

ORIGINAL

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of Section 73.202(b),)
Table of Allotments,)
FM Broadcast Stations.)
(El Reno, Oklahoma))

MM Docket No. 97-70
RM-

To: Chief, Allocations Branch

PETITION FOR RULE MAKING

Nancy Galvan ("Galvan"), by her attorney and pursuant to § 1.401, *et seq.*, of the FCC's Rules, hereby petitions the Commission to amend the Table of Allotments in Rule 73.202(b) to allot **Channel 293A** to **El Reno, Oklahoma**, as the Community's first local FM service.¹

In the event that this Petition is granted and the requested allotment is made, Galvan intends to apply for the El Reno station.

In support whereof, the following is shown.

Good Cause

The Commission has recently found good cause to favorably consider amending § 73.202(b) to allot Channel 293A to El Reno. In a Notice of Proposed Rule Making in MM Docket No. 97-70 (RM-9020), 12 FCC Rcd 2104 (1997) (the "NPRM"), the

¹ El Reno presently receives local aural service from Station KZUE(AM).

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Chief, Allocations Branch, ruled that an identical request warranted consideration "since the allotment of Channel 293A could provide El Reno with its second local aural service as well as its first local FM transmission service" (footnote omitted.) El Reno, an established city located approximately 25 miles west of Oklahoma City, has a 1990 Census population of 15,414. 12 FCC Rcd at 2104 n. 1.

However, the petitioner in RM-9020 failed to make a subsequent showing of continued interest to file an application for Channel 293A at El Reno and, by Report and Order, 12 FCC Rcd 11628, released August 8, 1997 ("the "R&O"), the proceeding was terminated. Both the NPRM and the R&O in RM-9020 are annexed hereto as Ex. 1 for the staff's convenience.²

For these reasons, there is good cause to amend § 73.202(b) to provide El Reno with its first local FM service and second local aural service.

Technical Considerations

Annexed hereto as Ex. 2 is the Engineering Statement of Broadcast Engineering Consultant Doug Vernier. Mr. Vernier's channel search confirms that Channel 293A (106.5 MHz) is the only frequency available for allotment to El Reno which

² Unfortunately, Galvan, who resides in El Reno, was unaware of the pending rule making at the time. Had she known of it, she would have timely filed an expression of her intention to apply for the station.

conforms fully to the spacing requirements of Commission Rule 73.207. The allocation requires an 11.51 kilometer site restriction to the west of El Reno to avoid spacing conflicts with Stations KGOU, Channel 292A, Norman, Oklahoma, and KYQQ, Channel 293C, Arkansas City, Kansas. See NPRM, 12 FCC Rcd at 2104, ¶ 2.

Conclusion

Again, Galvan expressly intends to apply for the new station if Channel 293A is allotted to El Reno.

WHEREFORE, for these reasons, the public interest would be well served by the grant of this Petition for Rule Making and amendment of the FM Table of Allotments to allocate Channel 293A to El Reno, Oklahoma.

Respectfully submitted,

NANCY GALVAN

By:  _____
Lawrence Bernstein

Her Attorney

LAW OFFICES OF
LAWRENCE BERNSTEIN
1818 N Street, NW
Suite 700
Washington, D.C. 20036
(202) 296-1800

Attachments

February 20, 1998

Exhibit 1

Notice of Proposed Rule Making in MM Docket No. 97-70
(RM-9020), 12 FCC Rcd 2104 (1997), and **Report and Order**
in MM Docket No. 97-70, 12 FCC Rcd 11628 (1997)

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
)
Amendment of Section 73.202(b),) MM Docket No. 97-70
Table of Allotments,) RM-9020
FM Broadcast Stations.)
(El Reno, Oklahoma))

NOTICE OF PROPOSED RULE MAKING

Adopted: February 14, 1997

Released: February 21, 1997

Comment Date: April 14, 1997

Reply Comment Date: April 29, 1997

By the Chief, Allocations Branch:

1. The Commission has before it the petition for rule making filed by Fred R. Morton, Jr. ("petitioner"), requesting the allotment of Channel 293A to El Reno, Oklahoma, as the community's first local FM transmission service.¹ Petitioner states that it will apply for the channel, if allotted.

2. We believe petitioner's proposal warrants consideration since the allotment of Channel 293A could provide El Reno with its second local aural service² as well as its first local FM transmission service. Channel 293A can be allotted to El Reno in compliance with the Commission's minimum distance separation requirements with a site restriction of 12.5 kilometers (7.8 miles) west to avoid a short-spacing to Stations KGOU, Channel 292A, Norman, OK, and KYQQ, Channel 293C, Arkansas City, KS.³

3. Accordingly, we seek comments on the proposed amendment of the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, for the community listed below, to read as follows:

¹ El Reno has a 1990 U.S. Census population of 15,414 persons.

² El Reno presently receives local aural service from AM Station KZUE.

³ The coordinates for Channel 293A at El Reno are 35-32-18 North Latitude and 98-05-26 West Longitude.

<u>City</u>	<u>Channel No.</u>	
	<u>Present</u>	<u>Proposed</u>
El Reno, Oklahoma	--	293A

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

5. Interested parties may file comments on or before April 14, 1997, and reply comments on or before April 29, 1997, and are advised to read the Appendix for the proper procedures. Comments should be filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554. Additionally, a copy of such comments should be served on the petitioner, or its counsel or consultant, as follows:

Fred R. Morton, Jr.
5103 North Cherry
Lawton, OK 73505
(Petitioner)

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. See Certification That Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules, 46 FR 11549, February 9, 1981.

7. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 418-2180. For purposes of this restricted notice and comment rule making proceeding, members of the public are advised that no ex parte presentations are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the proceeding has been decided and such decision is no longer subject to reconsideration by the Commission or review by any court. An ex parte presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or a summary of any new oral information shall be served by the person making the presentation upon the other parties to the proceeding unless the Commission specifically waives this service requirement. Any comment which has not been served on the petitioner constitutes an ex parte presentation and shall not be considered in the proceeding. Any reply comment which has not been served

on the person(s) who filed the comment, to which the reply is directed, constitutes an ex parte presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

Attachment: Appendix

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MM Docket No. 97-70
Table of Allotments,)	RM-9020
FM Broadcast Stations.)	
(El Reno, Oklahoma))	

REPORT AND ORDER
(Proceeding Terminated)

Adopted: July 30, 1997

Released: August 8, 1997

By the Chief, Allocations Branch:

1. At the request of Fred R. Morton ("petitioner"), the Commission has before it the Notice of Proposed Rule Making, 12 FCC Rcd 2104 (1997), proposing the allotment of Channel 293A to El Reno, Oklahoma, as the community's first local FM service. No comments were received from the petitioner or any other party stating an intention to file an application for Channel 293A at El Reno.

2. As stated in the Notice, a showing of continuing interest is required before a channel will be allotted, and absent such an expression of interest, it is Commission policy to refrain from allotting the channel. Therefore, petitioner's request to allot Channel 293A to El Reno, Oklahoma, will be dismissed.

3. Accordingly, IT IS ORDERED, That the request of Fred R. Morton to allot Channel 293A to El Reno, Oklahoma, IS DISMISSED.

4. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

5. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

Exhibit 2

Engineering Statement of Broadcast Engineering Consultant
Doug Vernier

Engineering Statement:

On behalf of Irving and Nancy Galvan, the entire commercial FM broadcast spectrum was carefully studied to determine the availability of a class A channel assignment that could be licensed to El Reno, Oklahoma. The channel search resulted in the identification of channel 293, (106.5 MHz.) This is the only channel available for assignment to El Reno that will meet all spacing requirements of Section 73.207. The allocation requires an 11.51 kilometer site restriction to the west of El Reno to avoid a spacing conflict with KGOU, Norman and KYQQ, Arkansas City, Kansas.

Exhibit #1 is a computer separation study that shows the availability of channel 293A from the site-restricted coordinates.

Exhibit #2 is a separation study with map showing the geographic area in which a class A transmitter on channel 293A could be located. The map shows the requested allocation site at the center cross hair.

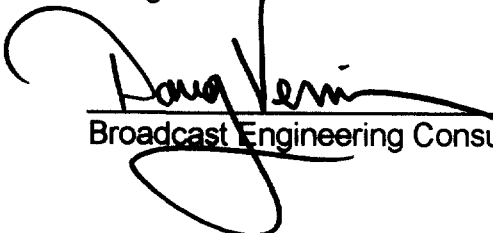
Exhibit #3 plots the 3.16 mV/m (70 dBu) city service signal contour of a full powered class A station at the allocation site. It can be seen that the contour completely encompasses El Reno.

Exhibit #4 is a certification my qualifications as a broadcast engineer to submit to the Commission the technical showings herein.

The assignment will provide El Reno, Oklahoma (population 15,414) with its first FM service and its second local aural service.

The petitioner has indicated willingness to apply for the channel once it has been assigned.

Doug Vernier



Broadcast Engineering Consultant

DOUG VERNIER - TELCOM CONSULTANTS
1600 PICUTRESQUE DRIVE. CEDAR FALLS IA 50613

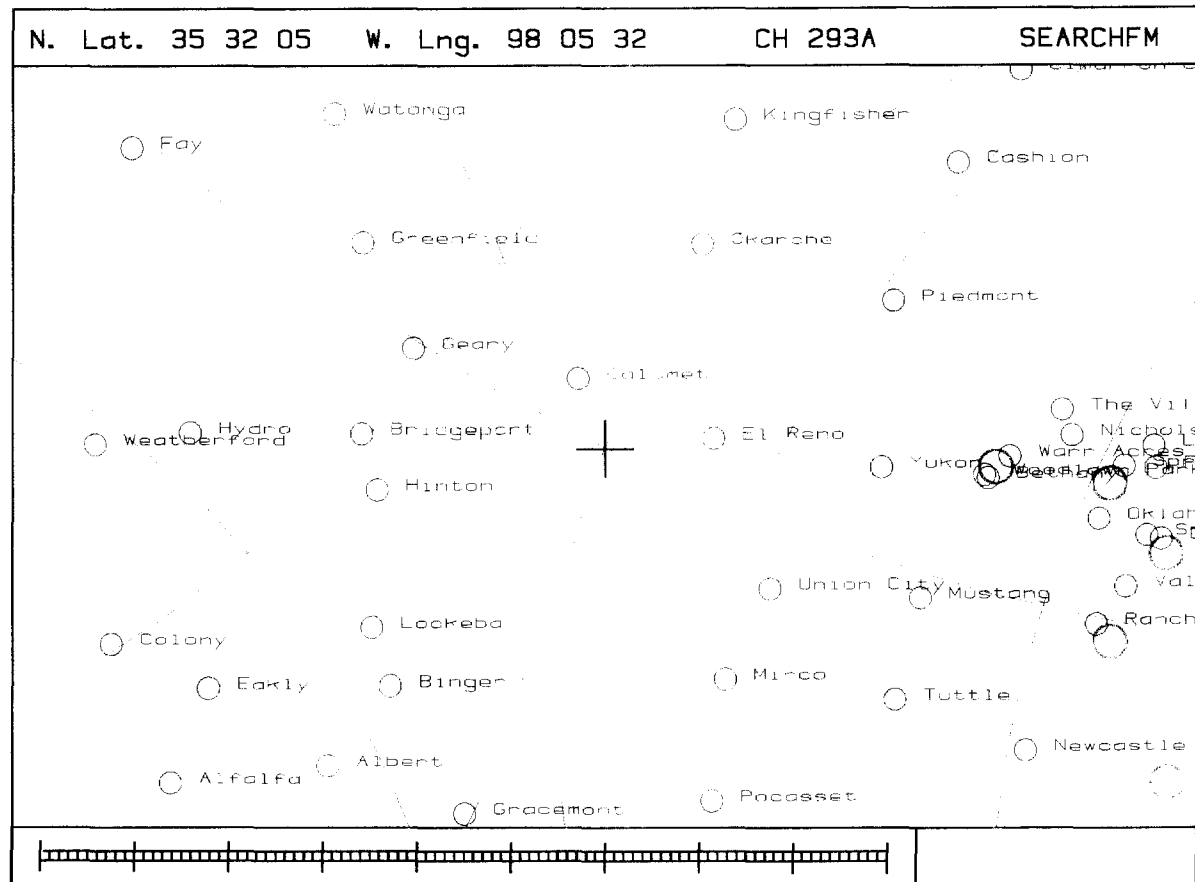
Ex. #1

Irving and Nancy Galvan
Site restricted 11.51 km west of El Reno, Oklahoma

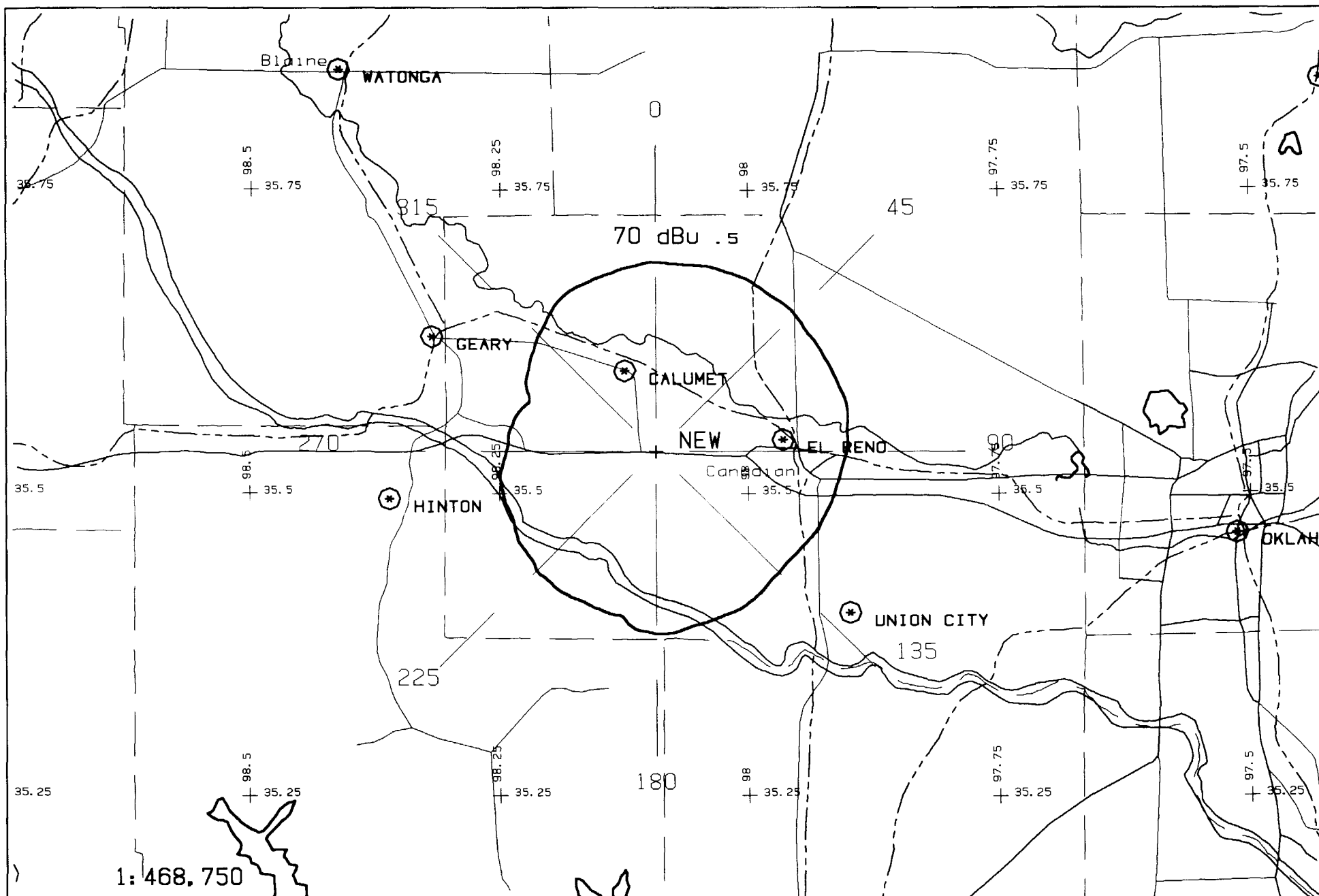
REFERENCE	CLASS = A	DISPLAY DATES
35 32 05 N	Current Spacings	DATA 11-08-97
98 05 32 W		SEARCH 11-10-97

----- Channel 293 - 106.5 MHz -----

Call	Channel	Location	Dist	Azi	FCC	Margin
N. Lat.	W. Lng.	Power	HAAT			
KGOU	LI 292A	Norman	OK	72.00	112.1	72.0 0.00
35 17 22	97 21 30	CN	3.000 kW	91 M		
		The University of Oklahoma		BLH830804AE	960920	
KYQQ	LI 293C	Arkansas City	KS	226.01	26.1	226.0 0.01
37 21 24	96 57 55	CN	100.000 kW	390 M		
		Wichita Great Empire Broadcas		BLH880120KA	970228	
KCLIFM	LI 295C1	Clinton	OK	81.41	266.1	75.0 6.41
35 28 53	98 59 14	CN	100.000 kW	87 M		
		Custer Broadcasting, Inc.		BLH4519	970612	
KKNGFM	CPM 293C3	Holdenville	OK	158.66	115.4	142.0 16.66
34 54 50	96 31 20	ZCN	25.000 kW	100 M		
		Tyler Broadcasting Corporatio		BMPH961220IB	970929	
AD292	AD 292C1	Woodward	OK	153.14	306.4	133.0 20.14
36 20 40	99 28 00		0.000 kW	0 M		
		Ralph Tyler		RM9082	970502	
KQTZ	LI 290C	Hobart	OK	131.86	236.3	95.0 36.86
34 52 15	99 17 36	CN	100.000 kW	311 M		
		Altus Radio, Inc.		BLH840806DA	970226	
KKNGFM	LI 293A	Holdenville	OK	164.50	108.4	115.0 49.50
35 03 24	96 22 49	CN	4.500 kW	62 M		
		Tyler Broadcasting Corporatio		BLH920323KA	970929	
ALOPEN	AL 292C2	Wichita Falls	TX	187.79	193.5	106.0 81.79
33 53 18	98 34 08	N	0.000 kW	0 M		
		87-341			940328	
KMKZ	LI 239C3	Lahoma	OK	98.50	3.8	12.0 86.50
36 25 14	98 01 12	ZCN	9.600 kW	153 M		
		Donald W. McCoy		BLH950717KB	951026	
AD291	AD 291A	Ratliff City	OK	118.49	154.2	31.0 87.49
34 34 21	97 31 43		0.000 kW	0 M		
		Carter County Broadcasting		RM9094	970522	
KYNZ	LI 294A	Lone Grove	OK	163.52	151.7	72.0 91.52
34 14 09	97 14 48	CN	5.500 kW	104 M		
		Chuckie Broadcasting Company		BLH920611KB	970228	
KIRC	LI 290A	Seminole	OK	124.03	101.4	31.0 93.03
35 18 28	96 45 18	CN	4.400 kW	117 M		
		One Ten Broadcast Group, Inc.		BLH960523KA	960823	
AD291	AD 291A	Pauls Valley	OK	127.25	140.0	31.0 96.25
34 39 14	97 11 54		0.000 kW	0 M		
		Tom Stamper		RM9021	970303	

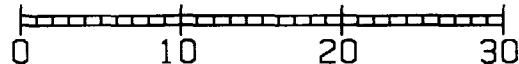


Call	CH#	Location		D-KM	Azi	FCC	Margin
KGOU	292A	Norman	OK	72.00	112.1	72.0	0.00
KYQQ	293C	Arkansas City	KS	226.01	26.1	226.0	0.01
KCLIFM	295C1	Clinton	OK	81.41	266.1	75.0	6.41
KKNGFM	293C3	Holdenville	OK	158.66	115.4	142.0	16.66
AD292	292C1	Woodward	OK	153.14	306.4	133.0	20.14
KQTZ	290C	Hobart	OK	131.86	236.3	95.0	36.86
KKNGFM	293A	Holdenville	OK	164.50	108.4	115.0	49.50
ALOPEN	292C2	Wichita Falls	TX	187.79	193.5	106.0	81.79
KMKZ	239C3	Lahoma	OK	98.50	3.8	12.0	86.50
AD291	291A	Ratliff City	OK	118.49	154.2	31.0	87.49
KYNZ	294A	Lone Grove	OK	163.52	151.7	72.0	91.52
KIRC	290A	Seminole	OK	124.03	101.4	31.0	93.03
AD291	291A	Pauls Valley	OK	127.25	140.0	31.0	96.25



1:468,750

Scale in km



NEW 293A 6kW 525.5M AMSL 100M HAAT
N. Lat. 35 32 05 W. Lng. 98 05 32

ALLOCATION PROPOSAL
D. Vernier - 11/97

Declaration:

I, Doug Vernier, declare that I have studied engineering at the University of Michigan and have received degrees from the University in the field of Broadcast Telecommunications. That, I have been active in broadcast consulting for over 24 years;

That, I have held a Federal Communications Commission First Class Radiotelephone License continually since 1964. In 1985, this license was reissued by the Commission as a lifetime General Radiotelephone license no. PG-16-16464;

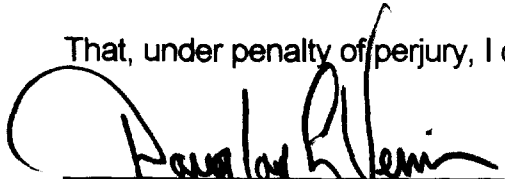
That, I am certified as a Professional Broadcast Engineer (#50258) by the Society of Broadcast Engineers, Indianapolis, Indiana. (Re-certified 11/95.)

That, my qualifications are a matter of record with the Federal Communications Commission;

That, I have been retained by Irving and Nancy Galvan to prepare the engineering showings appended hereto;

That, I have prepared these engineering showings, the technical information contained in same and the facts stated within are true of my knowledge;

That, under penalty of perjury, I declare that the foregoing is correct.

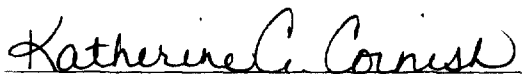


Douglas L. Vernier

Executed on November 9th, 1997

Subscribed and sworn before me this 9th day of November, 1997





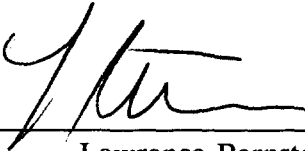
Katherine A. Cornish

Notary Public in and for the State
of Iowa

CERTIFICATE OF SERVICE

I hereby certify that I have, this 20th day of February, 1998, served a copy of this "Petition for Rule Making" upon the following person by first class United States Mail, postage prepaid.

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau
Federal Communications Commission
2000 M Street, NW, Room 8010
Washington, D.C. 20554



Lawrence Bernstein